1574

SUPREME COURT OF THE UNITED STATES.

No. 158.

SAMUEL H. CARPENTER, ACTING EXECUTOR, AND CHARLES WILKINS SHORT AND J. CLEVES SHORT, EXECUTORS NAMED AND RESIDUARY LEGATEES OF WILLIAM SHORT, DECEASED, PLAINTIFFS IN ERROR,

vs.

THE COMMONWEALTH OF PENNSYLVANIA.

IN ERROR TO THE SUPREME COURT OF PENNSYLVANIA.

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GIBSON, print.

Pleas before the honorable John Bannister Gibson, esquire, LL. D., chief justiceof the supreme court of Pennsylvania, and his associates, justices of the same court, at a supreme court in and for the eastern district of Pennsylvania, at Philadelphia, of the term of March, A. D. 1851—No. 23.

It is thus contained:

EASTERN DISTRICT OF PENNSYLVANIA, *ss:*

[Seal sup. court of Penn., E. D.] The Commonwealth of Pennsylvania, to the justices of the register's court for the city and county of Philadelphia, greeting:

We being willing, for certain causes, to be certified of the proceedings in the matter of the appeal of Samuel H. Carpenter, executor of the estate of William Short, deceased, from your decree before you, or some of you depending, do command you that the record and proceedings aforesaid, with all things touching the same, before the justices of our supreme court of Pennsylvania, at a supreme court to be holden at Philadelphia, in and for the eastern district, the third Monday of March next, so full and entire as in our court before you they remain, you certify and send, together with this writ, that we may further cause to be done thereupon, that which of right and according to the laws of the said State ought.

Witness the honorable John Bannister Gibson, esq., doctor of laws, chief justice of our said supreme court at Philadelphia, the seventeenth day of January, in the year of our Lord one thousand eight hundred and fifty-one.

Allowed by

J. NULLET,
For J. S. COHEN,
Prothonotary.

To the honorable judges within named, the within records we send with all the proceedings touching the same, as within we are commanded. So answers

EDWARD KING,
A. V. PARSONS.

23.—March term, 1851—Supreme court.

In the matter of the appeal of Samuel H. Carpenter, executor of Wm. Short, deceased, from the decree of the register's court. Certiorari to the register's court for the city and county of Philadelphia, returnable the third Monday of March, 1851. Rule on the appellee to appear and plead on the return day of the writ.

H. D. GILPIN.

In the matter of the estate of William Short, deceased.

Citation.

Before the register of wills for the city and county of Philadelphia.

CITY AND COUNTY OF PHILADELPHIA, *ss:*

The Commonwealth of Pennsylvania, to Samuel H. Carpenter, acting executor, and John C. Short, Charles W. Short, executors named and residuary legatees and heirs under the will of William Short, deceased, greeting:

You are hereby cited and commanded, that you be and appear in your proper person, at the office of the register of wills, No. 6, county buildings, on Friday the 21st instant, at 10 o'clock, with your papers and vouchers belonging to the estate of William Short, deceased, and show cause why the collateral inheritance tax due on the real and personal estate of said decedent shall not be paid by you, or, in default thereof, why you should not give security therefor; and herein fail not, under the penalty of such laws as are made and provided in the premises.

Witness my hand and seal of office at Philadelphia, the 11th day of June, in the year of our Lord one thousand eight hundred and fifty, (1850.)

THOMAS C. BUNTING,
Register of the probate of wills, &c.

In the matter of the estate of William Short, deceased: Sur citation before the register of wills, for the city and county of Philadelphia, returnable on Friday, the 21st June, 1850.

The answer of Samuel H. Carpenter, executor of the said William Short, to the said citation.

The said Samuel H. Carpenter, executor as aforesaid, pursuant to the said citation, now appears in his proper person at the office of the said register, on this twenty-first day June, A. D. 1850, and respectfully represents:

That on the eleventh day of September, A. D. 1847, the said William Short did, in the city of Philadelphia, make his last will and testament, wherein, after devising and bequeathing certain specific legacies therein mentioned, amounting in the aggregate to the sum of $25,000, he devised and bequeathed the rest and residue of his estate real, personal, and mixed, which he might own at the time of his death, to his two nephews, John Cleves Short and Charles Wilkins Short, the income thereof to be received and enjoyed by them, jointly, during their joint lives, and on the death of either of them the whole of said estate to be taken, held, and enjoyed by the survivor of them, his executors, administrators, and assigns; and wherein, also, he appointed his said two nephews, John Cleves Short and Charles Wilkins Short, and his friend, Samuel H. Carpenter, his executors; all of which appears by the certified copy of the said last will and testament hereto annexed, marked No. 1.

That on the fifth day of December, A. D. 1849, the said William Short died in the city of Philadelphia.

That on the eighteenth day of December, A. D. 1849, the said last will and testament was admitted to probate by the register of wills for the city and county of Philadelphia, and on the same day letters testamentary were granted to Samuel H. Carpenter, a resident of Philadelphia; all of which appears by the certified copy of the said letters testamentary hereto annexed, marked No. 2.

That thereupon the said Samuel H. Carpenter filed in the office of the said register of wills for the city and county of Philadelphia, an inventory and statement (marked B) of all the goods, chattels, and credits of the deceased as far as he knew, or could ascertain the same; whereby it appeared that the whole amount of the same, then being within the State of Pennsylvania, was of the appraised value of $79,114 59; and whereby it further appeared that certain securities and evidences of debts, stocks, and loans, and property not within the State of Pennsylvania, belonging to the testator at the time of his death, had also come to the knowledge of the executor, and were stated by him without prejudice to the rights of the representatives of the testator and his estate, to be exempt from any liability or tax therefor, or on account thereof within this Commonwealth, the appraised value of which securities, evidences of debts, stocks, loans, property not within the State of Pennsylvania, was $522,471 92.

That on the 26th day of December, A. D. 1849, the appraisement of the said goods and chattels, rights and credits, duly made according to law, together with the said inventory and statement of the said Samuel H. Carpenter, was filed in the office of the said register, wherein the value of the said property of the testator, within the State of Pennsylvania, at the time of his death, was appraised at $79,114 89, and of the securities and property not then within the said State, at $522,471 92; all of which appears by the certified copy of the said inventory and appraisement, and the inventory and statement (marked B) of the said Samuel H. Carpenter, hereto annexed, marked No. 3.

That on the 21st day of December, A. D. 1849, application was made to the said register of wills for the city and county of Philadelphia, by Henry D. Gilpin, attorney for John Cleves Short, a resident of the State of Ohio, and Charles Wilkins Short, a resident of the State of Kentucky, (two of the executors named in the will,) that letters testamentary might be granted to them pursuant to the act of assembly in such cases made and provided; whereupon the said register ordered and directed, before such letters testamentary should be granted to the said John Cleves Short and Charles Wilkins Short, not being inhabitants of this Commonwealth, that they should give bond, with sufficient security, in the sum of $1,200,000, being (as stated by the said register) double the amount of inventory, from which decision the said John Cleves Short and Charles Wilkins Short appealed to the register's court; all of which appears by the copy of said proceedings hereto annexed, marked No. 4.

That on the 24th December, 1849, at a register's court then held—present, Judges King, Campbell, and Parsons, and register Bunting—on hearing the said appeal, a petition was presented by the said John Cleves Short and Charles Wilkins Short, for the reversal of the said decision of the register, together with a copy of the will of the testator, and together, also, with an affidavit and statement of the said Samuel H. Carpenter, relative to the personal estate of the testator; and thereupon it was ordered by the said court, that before the register should issue letters testamentary to the said petitioners he should take from them a bond, with two or more sufficient sureties, being inhabitants of this Commonwealth, in the sum of $75,000; all of which appears by copies of said petition, affidavit, and order hereto annexed, marked No. 5, 6, 7.

That, as the said Samuel H. Carpenter is informed and believes, the said order has not been complied with by the said John Cleves Short and Charles Wilkins Short, nor have letters testamentary been granted to them by the said register; but the said Samuel H. Carpenter continues to be the sole, qualified, and acting executor of the testator within this Commonwealth.

That on the 22d December, 1849, the said Samuel H. Carpenter gave notice of the said letters testamentary having been issued to him, in due form of law, as appears by the copy of said notice hereto annexed, marked No. 8.

That, in the discharge of his duties, the said Samuel H. Carpenter has paid since the death of the testator:

For debts due by the testator at the time of his death	$327 43
For instalments of stocks subscribed for by the testator, and accrued since his death - - - -	9,000 00
For charges accrued on the testator's estate since his death, including the expense of erecting a monument	1,630 94
For the legacies mentioned in the testator's will -	23,750 00
For collateral inheritance tax on said legacies - -	1,225 00
	$35,933 37
The executor has also received notice of a demand against the testator's estate, for services alleged to have been rendered to him in his lifetime, of - -	2,228 75
The executor also claims to be allowed, before appropriating to the residuary legatees any portion of the personal property within the State of Pennsylvania, his commissions, at the rate of 5 per cent. thereon -	3,955 70
The executor also claims to retain, in order to meet any outstanding liabilities of the testator, counsel fees, and charges that may arise - - - -	3,000 00
	$45,117 82

That after deducting this sum there would remain in the hands of the said Samuel H. Carpenter, out of the property of the testator in the State of Pennsylvania at the time of his death, an estimated residue of $33,990 77, to be appropriated according to the terms of the bequest to his residuary devisees. That since the death of the testator the said Samuel H. Carpenter has paid over no portion of the principal or interest of the legacy to the said residuary devisees or either of them. That since the death of the testator the said Samuel H. Carpenter has received the following sums, on account of the property of the testator within the State of Pennsylvania, stated in the inventory, viz:

Interest and dividends - - - -	$2,826 66
Principal of loans on collateral security paid off -	25,000 00

That since the death of the testator the said Samuel H. Carpenter has received the following sums, on account of the property of the testator not within the State of Pennsylvania at the time of his death, and referred to in the statement B, annexed to the inventory, viz:

Interest and dividends - - - -	$17,544 57
Principal of stocks, &c., paid off - - -	49,702 02

All of which appears by the statement and account hereto annexed, marked No. 9.

That the said Samuel H. Carpenter, executor as aforesaid, knows of no real estate within the State of Pennsylvania belonging to the testator at the time of his death, nor does he believe any such existed.

S. H. CARPENTER, *Executor.*

No. 1.

I, William Short, born in the State of Virginia, but now residing in the city of Philadelphia, make my last will and testament, as follows:

I revoke and cancel all wills and testaments by me heretofore made, and declare this to be my last will and testament. For greater certainty I state here, that the several sums which I have often mentioned as my intention to bequeath to the numerous relatives in my family, I have anticipated by paying to them during my life. I give, devise and bequeath to Doctor Victor Godon, of Philadelphia, the sum of ten thousand dollars in trust, to hold five thousand dollars thereof for the sole and separate use of his mother, Mrs. Victorine Godon, and the remaining five thousand dollars thereof for the sole and separate use of his sister, Cecelia Godon. I give, devise and bequeath to Elliott Cresson, Doctor John Bell, Gerard Ralston, and the survivors and survivor of them, the sum of ten thousand dollars in trust, for the use of the American Colonization society. I give, devise and bequeath to Mrs. Stewart, who has kept my house for several years to my greatest satisfaction, the sum of five thousand dollars. I give, devise and bequeath the rest and residue of my estate, real, personal and mixed, which I may own at the time of my death, to my two nephews, John Cleves

No. 2.

COMMONWEALTH OF PENNSYLVANIA,
City and county of Philadelphia, ss:

By the tenor of these presents, I, Thomas C. Bunting, register for the probate of wills and granting letters of administration, in and for the city and county of Philadelphia, in the Commonwealth of Pennsylvania: [SEAL.]

Do make known to all men, that on the eighteenth day of December, A. D. 1849, at Philadelphia, before me was proved and approved the last will and testament of William Short, deceased, (a true copy whereof is to these presents annexed,) having whilst he lived, and at the time of his death, divers goods, chattels, rights, and credits within the said Commonwealth, by reason whereof the approbation and insinuation of said last will and testament, and the committing administration of all and singular the goods, chattels, rights and credits, which were of the said deceased; and also the auditing the accounts, calculations, and reckonings of the said administration, and absolute care of the same, to me are manifestly known to belong, and that administration of all and singular the goods, chattels, rights and credits of said deceased, any way concerning his last will and testament, was committed to Sam'l H. Carpenter in the said testament named, he having first been duly sworn well and truly to administer the goods, chattels, rights and credits of the deceased, and make a true and perfect inventory thereof, and exhibit the same into the register's office, at Philadelphia, on or before the 18th day of January next, and to render a just and true account, calculation and reckoning of the said administration, on or before the 18th day of December, one thousand eight hundred and fifty, (1850,) or when lawfully required; and also to diligently and faithfully regard, and well and truly comply with, the provisions of the act relating to collateral inheritance.

In testimony whereof, I have hereunto set my hand and seal of office, at Philadelphia, the eighteenth day of December, in the year of our Lord one thousand eight hundred and forty-nine (1849.)

THO'S C. BUNTING, *Register.*

No. 3.

CITY AND COUNTY OF PHILADELPHIA, *ss:*

Personally came before me, register of wills in and for said city and county, the following persons, viz: William L. Schaffer and Jos. C. Molloy, who upon their solemn affirmations did say that they, at the request of the executors, did "well and truly and without prejudice or partiality value and appraise the goods, chattels and credits," which were of William Short, deceased, "and in all respects performed their duties as appraisers to the best of their skill and judgment."

W. L. SCHAFFER,
JOS. C. MOLLOY.

Short and Charles Wilkins Short; the income thereof to be received and enjoyed by them jointly during their joint lives, and on the death of either of them the whole of said estate to be taken, held and enjoyed by the survivor of them, his heirs, executors, administrators and assigns. I appoint my two nephews, John Cleves Short and Charles Wilkins Short, and my friend Samuel H. Carpenter, my executors.

Witness my hand and seal this eleventh day of September, in the year one thousand eight hundred and forty-seven.

W. SHORT, [SEAL.]

Signed, sealed, published and declared by the said William Short, on the day of the date, as his last will and testament, in the presence of all of us, who have signed our names as witnesses in his presence and in the presence of each other, on the said day and year.

W. L. SCHAFFER,
CHARLES LEHMAN,
J. P. LYLE.

CITY AND COUNTY OF PHILADELPHIA, *ss:*

Register's Office, Dec. 18, 1849.

Then personally appeared W. L. Schaffer, Charles Lehman and J. P. Lyle, the subscribing witnesses to the foregoing will of William Short, deceased, and on their solemn affirmations did say, that they were present and did see and hear William Short, dec'd, the testator therein named, sign, seal, publish and declare the same as and for his last will and testament, and that at the doing thereof he was of sound, disposing mind, memory and understanding to the best of their knowledge and belief.

W. L. SCHAFFER,
CHAS. LEHMAN,
J. P. LYLE.

Affirmed and subscribed before me, the date above.

THOS. C. BUNTING, *Register.*

CITY AND COUNTY OF PHILADELPHIA, *ss:*

REGISTER'S OFFICE, *Dec.* 18, '49.

I do swear that, as one of the executors of the foregoing last will and testament of William Short, deceased, I will well and truly administer the goods and chattels, rights and credits of said deceased, agreeably to law; and that I will comply with the provisions of the law relating to collateral inheritance.

S. H. CARPENTER.

Sworn and subscribed before me, the date above, and letters testamentary granted unto him.

THO'S C. BUNTING,
Register.

487 sh's of stock of the Richmond, Fredericksburg and Potomac Railroad Company, State of Virginia, $48,700 *a* 90 p. c.	43,830 00	
50 " stock of the Norfolk, Port Walthall S. Tow-boat Association, Virginia, $5,000 *a* par - - - - - -	5,000 00	
8 sh's stock of the Baltimore Steam Packet Co., State of Maryland, $8,000 *a* 125 p. c.	10,000 00	
61 sh's stock of the Louisville and Portland Canal Company, of the State of Kentucky, $6,100 *a* 180 p. c. - - - -	10,980 00	
		$106,859 92
Carr'd forw'd - - - -		185,974 49
Bro't forw'd - - - -		185,974 49
100 sh's of stocks of the Ohio Life Ins. and Trust Co., State of Ohio, $10,000 *a* par	10,000 00	
90 six per cent. bonds of the city of Cincinnati, State of Ohio, of $1,000 ea. *a* 95 p. c.	85,500 00	
10 six per cent. Water-works bonds, city of Cincinnati, State of Ohio, of $1,000 ea. *a* 95 p. c. - - - - - - - - -	9,500 00	
2 five per cent. bonds of the city of Cincinnati, State of Ohio, of $1,000 ea. 85 p. c.	1,700 00	
35 six per cent. bonds of St. Louis, Missouri, of $1,000 *a* 92 p. c. - - - -	32,200 00	
1 bond (six per cent.) of the city of Louisville, State of Kentucky, $1,000 *a* 85 -	850 00	
1 six per cent. bond of the State of Kentucky, of $2,000 *a* 105 p. c. - - - -	2,100 00	
27 " 1,000 " - - - -	28,350 00	
2 " 500 " - - - -	1,050 00	
1 six per cent. bond of the Richmond, Fredericksburg and Potomac Railroad Co., State of Virginia, of $30,000 *a* par - -	30,000 00	
60 " " " 1,000 - - -	60,000 00	
2 " " " 10,000 90 p. c. -	28,000 00	
1 six per cent. certificate of debt of the Richmond, Fredericksburg and Potomac Railroad Co., State of Virginia, of $4,487 *a* par - - - - - - - -	4,487 00	
1 six per cent. bond of the Clover Hill Railroad Co., Virginia, of 30,000 *a* par	30,000 00	
50 seven per cent. bonds of the Winchester		

Affirmed and subscribed this 26th day of December, 1849, before me. THEO. T. DERINGER,
Dep. register.

Inventory and appraisement of the goods and chattels, rights and credits, which were of William Short, late of the city of Philadelphia, taken and made in conformity with the above deposition, as also an inventory made by S. H. Carpenter, executor of said estate, and marked B.

Cash, stocks, bonds, furniture, plate, &c., furniture at dwelling, Walnut above Sixth street		$1,000 00	
Library of sixteen hundred volumes, *a* 25 c. per volume		400 00	
One hundred and forty-four ounces silver plate		160 00	
Medallion set in brilliants		1,500 00	
Two gold watches $100, two clocks, $50		150 00	
Cash in Girard Bank	1,029 57		
Cash in Bank N. America	75 00		
		1,104 57	
Loans equal to cash, being amply secured, viz:			
Charnley vs. Whelan	$23,000 00		
Van Dyke & Co.,	22,000 00		
William D. Lewis	7,000 00		
J. H. Pleasants	5,000 00		
		57,000 00	
10 six per cent. bonds of the city of Pittsburgh of $1,000 each *a* 93 p. c.		9,300 00	
100 shares stock of the Bank of Danville, upon which $10 pr. share has been paid *a* par		1,000 00	
Bond and mortgage of S. H. Carpenter upon house and lot, 117 South 8th street, Philadelphia		7,500 00	
			$79,114 57

The following securities, evidences of debt, stock, loans, &c., &c., belonging to the testator at the time of his death and not properly within the State of Pennsylvania:

Cash in Bank of New York, city of New York	$1,049 92
400 sh's of stock of the Richmond, Fredericksburg and Potomac Railroad Company, State of Virginia, $40,000 *a* 90 p. c.	36,000 00

and Potomac Railroad Co., State of Virginia, of $1,000 *a* par - - - -	$50,000 00	
40 do. do. do. of 500 *a* par - - -	20,000 00	
36 five per cent. bonds, State of Tennessee, of $1,000 ea. *a* 85 p. c. - - -	30,600 00	
1 " 1,500 " - - - - -	1,275 00	
		$415,612 00
		$601,586 49
Doubtful debts:		
Morgan Ash - - - - - - - - -		$1,200 00

WM. L. SCHAFFER,
JOS. C. MOLLOY.

B.

Statement of the personal estate of William Short at the time of his death, viz: on the 5th day of December, 1849.

		Assessed value.
Cash in the city of Philadelphia:		
In the Girard Band $1,029 57		
Bk. N. America 75 00		
	$1,104 59	$1,104 59
10 six per cent. bonds of the city of Pittsburgh, $1,000 ea. - - - - - -	10,000 00	9,300 00
100 shares of stock of the Bank of Danville, on which $10 per share have been paid - - - - - - - - -	1,000 00	1,000 00
Bond and mortgage of S. H. Carpenter on house and lot, south 8th st., in the city of Philadelphia - - - - - -	7,500 00	7,500 00
Loans on collateral security in the city of Philadelphia:		
Charnley and Whelan - - - -	$23,000 00	23,000 00
Van Dyke & Co. - - - - -	22,000 00	22,000 00
Wm. D. Lewis - - - - -	7,000 00	7,000 00
J. P. Pleasants - - - - -	5,000 00	
M. Ash - - - - - - - -	1,200 00	
	$77,804 59	$75,904 59

The following securities and evidences of debts, stocks and loans and property not within the State of Pennsylvania, belonging to the testator at the time of his death, have also come to the knowledge of the executor, and are stated without prejudice to the rights of the representatives of the testator, and his estate to be exempt from any liability or tax therefore or on account thereof within this Commonwealth.

		Assessed value.
Cash in the city of New York, in the bank of New York - - - - - -	$1,049 92	$1,049 92
400 shares of stock of the Richmond, Fredericksburg and Potomac Railroad Company in the State of Virginia, 90. - -	40,000 00	36,000 00
487 shares of new stock of the Richmond, Fredericksburg and Potomac Railroad Company in the State of Virginia, *a* 90.	48,700 00	43,830 00
Carried forward - -	$89,749 92	$80,879 92
Brought forward - -	$89,749 92	$80,879 92
50 shares of stock of the Norfolk and Port Walthall Steamboat Association in the State of Virginia - - - - - -	5,000 00	5,000 00
8 sh's of stock of the Baltimore Steampacket Company in the State of Maryland -	8,000 00	10,000 00
61 sh's of stock of the Louisville and Portland Canal Company in the State of Kentucky - - - - - - -	6,100 00	10,980 00
100 sh's of stock of the Ohio Life insurance and Trust Company in the State of Ohio	10,000 00	10,000 00
90 six per ct. bonds of $1,000 each of the city of Cincinnati, in the State of Ohio -	90,000 00	85,500 00
10 six per ct. Water-works bonds of $100 each of the city of Cincinnati, in the State of Ohio - - - - - - - -	10,000 00	9,500 00
2 five per ct. bonds of $1,000 each of the city of Cincinnati, in the State of Ohio -	2,000 00	1,700 00
35 six per ct. bonds of $1,000 St. Louis, Missouri - - - - - - - -	35,000 00	32,200 00
1 six per ct. bond $1,000, Louisville, Kentucky - - - - - - - - -	1,000 00	850 00
1 six per cent. bond $2,000, the State of Kentucky - - - - - - - -	2,000 00	2,100 00
27 six per ct. bonds $1,000 each, the State of Kentucky - - - - - - -	27,000 00	28,350 00
2 six per ct. bonds $500 each, the State of Kentucky - - - - - - - -	1,000 00	1,050 00

1 six per cent. bond $30,000, of the Richmond, Fred'g and Potomac R. R. Co., in the State of Virginia - - -	$30,000 00	$30,000 00
60 six per cent. bonds $1,000 each of the Richmond, Fred'g and Potomac Railr'd Co. in the State of Virginia - - -	60,000 00	60,000 00
2 six per cent. bonds $10,000 each of the Richmond, Fred'g and Potomac Railr'd Co. in the State of Virginia - - -	20,000 00	18,000 00
1 six per ct. certificate of debt of the Richmond, Fred'g and Potomac Railr'd Co. in the State of Virginia. - - -	4,487 00	4,487 00
1 six per ct. bond of $30,000 of the Clover Hill Railroad Company in the State of Virginia - - - - - - -	30,000 00	30,000 00
50 seven per cent. bonds of $10,000 each of the Winchester and Potomac Railr'd Co. in the State of Virginia - - - -	50,000 00	50,000 00
40 seven per ct. bonds of $500 each of the Winchester and Potomac Railr'd Co. in the State of Maryland - - - -	20,000 00	20,000 00
Carr'd forward - -	$501,336 92	$490,596 92
Bro't forward - - -	$501,336 92	$490,596 92
36 five per ct. bonds of $1,000 each of the State of Tennessee - - - -	36,000 00	30,600 00
1 five per ct. bond of $1,500 of the State of Tennessee - - - - - -	1,500 00	1,275 00
In various States other than Pennsylvania	538,836 92	
" the State of Pennsylvania - - -	77,804 59	
	$616,641 51	$522,471 92
		$522,471 92
Am't of stocks, &c., in Pennsylvania -	75,904 57	
Furniture at dwelling, Walnut ab. 6th st. -	1,000 00	
Library of 16 hundred vols. *a* 25 c. each -	400 00	
One hundred and forty-four ozs. silver plate	160 00	
Two gold watches $100, two clocks $50 -	150 00	
Medallion set in brilliants - - - -	1,500 00	79,114 57
		$601,586 50
Doubtful debts:		
Morgan Ash, cash loaned him - - -	$1,200 00	

S. H. CARPENTER,
Executor of William Short.

No. 4.

In the matter of the estate of William Short, deceased.

December 18th, 1849. The will was admitted to probate, and letters testamentary were granted to Sam'l H. Carpenter, a resident of Philadelphia.

December 21st. Application was made by H. D. Gilpin, attorney for John Cleves Short, a resident of the State of Ohio, and Charles Wilkins Short, a resident of the State of Kentucky, (two of the executors named in the will,) that letters testamentary may be granted to them, pursuant to the act of assembly in such case made and provided.

December 21st. Eodem die. The register hereby orders and directs, before letters testamentary are granted to John C. Short and Charles W. Short, not being inhabitants of this Commonwealth, they shall give bond, with sufficient securities, in the sum of twelve hundred thousand dollars, ($1,200,000,) being double the amount of inventory.

December 21st. H. D. Gilpin, attorney for John C. Short and Charles W. Short, hereby appeals from the decision of the register in asking twelve hundred thousand dollars security, and asks for a register's court to decide upon the same.

No. 5.

To the register's court for the city and county of Philadelphia.

The petition of John Cleves Short, an inhabitant of the State of Ohio, and Charles Wilkins Short, an inhabitant of the State of Kentucky, nephews of William Short, deceased, and executors and residuary legatees named in his will.

The petitioners respectfully represent: That on application to the register for letters testamentary to be issued to them, he has required them to give security in the sum of twelve hundred thousand dollars, being double the appraised value of the decedent's estate as stated in the inventory, filed by their co-executor, Samuel H. Carpenter, an inhabitant of this Commonwealth, to whom letters testamentary have been issued.

That it will be seen by the said inventory that the personal estate of the testator within this Commonwealth amounts only to the sum of $79,114 59, at its appraised value; and the residue consists only of a return of securities and evidences of personal estate not within this Commonwealth.

That it will be seen by the affidavit of their said co-executor that there are no outstanding debts of the decedent except small sums, not exceeding in the whole five hundred dollars, which may be outstanding for domestic expenses.

That it will be seen by the same affidavit that the said executor has in his hands, immediately available, in cash funds, a sum sufficient to pay the specific legacies bequeathed in the will, and the collateral inheritance tax, leaving nothing to be paid but the residuary legacy.

That it will be seen by the terms of the decedent's will that all the residue of his estate, real, personal, and mixed, which he owned at the time of his death, is given, devised, and bequeathed to the petitioners, the income thereof to be received and enjoyed by them, jointly, during their joint lives; and on the death of either of them, the whole of said estate is to be taken, held, and enjoyed by the survivor of them, his heirs, executors, administrators, and assigns.

Your petitioners respectfully submit, that, under such circumstances, they ought not to be required to give more than a very limited amount of security, it being apparent that there is ample provision for the payment of all charges against the decedent's estate in the hands of their co-executor, and that the residuary legacy is payable to your petitioners only.

J. CLEVES SHORT,
C. W. SHORT.

No. 6.

In the register's court for the city and county of Philadelphia.

In the matter of the estate of William Short, deceased.

Samuel H. Carpenter, of the city of Philadelphia, one of the executors named in the will of the said William Short, being duly sworn, according to law, deposes and says:

That he is well acquainted with the property and affairs of the testator, having had the sole care and management thereof for many years before his death.

That he believes the testator had no debts whatever remaining at the time of his death, except a few household charges, the aggregate of which the deponent believes to be less than five hundred dollars.

That the legacies bequeathed by the testator (except the residuary legacy) amount, as will be seen by the will, to twenty-five thousand dollars.

That the cash and personal securities immediately available to the payment of all the legacies, (except the residuary legacy,) and the collateral inheritance tax, largely exceed the amount thereof.

That the cash and personal securities, immediately available, within the State of Pennsylvania, exceed the sum of seventy thousand dollars in present value, as this deponent believes; and the cash and investments made by the testator in his lifetime elsewhere in the United States, and held by him at his death, exceed the sum of four hundred thousand dollars in present value, as this deponent believes.

S. H. CARPENTER.

Sworn and subscribed, on this 28th day of December, A. D. 1849, before me,

THOMAS D. SMITH, *Alderman.*

No. 7.

In the matter of the estate of William Short, deceased.

24th December, 1849. At a register's court this day held—present Judges King, Campbell, Parsons, and register Bunting.

The appeal of John Cleves Short and Charles Wilkins Short, from the order of the register made in this case on the 21st instant, again came before the court; and the petition of the appellants to this court, and an affidavit of Samuel H. Carpenter, executor of the testator, to whom letters testamentary have been issued by the register, having been read and filed; and a duly certified copy of the will of the testator, and a statement of the personal property of the testator as set out in the inventory of the said Samuel H. Carpenter, the executor as aforesaid, having been exhibited:

It was therefore ordered, adjudged, and decreed by the said court, that before the said register shall issue letters testamentary to John Cleves Short and Charles Wilkins Short, the nephews of the testator, and the executors named in his will, together with the said Samuel H. Carpenter, (the said John Cleves Short and Charles Wilkins Short not being inhabitants of this Commonwealth,) he shall take from them alone, with two or more sufficient sureties, being inhabitants of this Commonwealth, in the sum of seventy-five thousand dollars, as directed by the laws of this Commonwealth.

No. 8.

Copy of executor's notice published in the Pennsylvania Inquirer, and also in the North American and United States Gazette, on the 22d December, 1849, viz:

"*Executor's Notice.*

Estate of William Short, deceased.

Notice is hereby given that letters testamentary have been granted to the undersigned, as executor of William Short, deceased. All persons having claims or demands against the estate of the said decedent are requested to make the same known to me without delay.

SAM'L H. CARPENTER,
No. 76½ Walnut street."

No. 9.

DR. *The estate of William Short, deceased, in account with Samuel C. Carpenter, executor.*

	For the following sums paid since the death of the testator, for debts due at the		
1849.	time of his death, viz:		
Dec. 12	To Jas. Styer, for 1 month's wages	$30 00	
12	Mrs. C. Stewart, house exp'ses	50 00	
1850.			
Jan. 2	Margaret Christie, upholstering	3 62	
2	Luke Goines, shaving - -	3 00	
2	Anna Side, washing - -	13 00	
2	Nancy Tainter, wages - -	9 00	
3	William Strang, milk - -	8 46	
3	A. Gallet, wigs - - -	40 00	
4	W. H. C. Riggs, clocks, &c. -	13 00	
4	Jacob Haines, bread - -	7 72	
4	Morris, Tasker & Morris, furnace	2 75	
5	R. F. Knight, carpenter -	32 80	
7	D. B. Kershon & Co., ice -	9 65	
12	Philadelphia Gas Works, gas -	12 83	
15	T. S. Mitchell, executor of C. Stewart, house-keeper - -	50 00	
Feb. 15	Looney & Browne, plumbers -	6 60	
M'ch 9	Dr. G. Emerson - - -	20 00	
April 9	Dr. S. Jackson - - -	15 00	
			$327 43
	For the following sums paid for instalments on stock subscribed for by the testator, and accrued		
1849.	since his death, viz:		
Dec. 18	To instalments, 30 per ct. on 100		
1850.	shares Bank of Danville - -	$3,000 00	
Jan. 3	To do. 20 per ct. do. do. - -	2,000 00	
23	To do. 20 per ct. do. do. - -	2,000 00	
Feb. 6	To do. 20 per ct. do. do. - -	2,000 00	
			9,000 00
	Amount carried forward - - -		$9,327 43
	To amount brought forward -	$9,327 43	
	For the following charges accrued on the testator's estate since his death, including the expense		
1849.	of erecting a monument, viz:		
Dec. 12	To 4 newspaper advertising notice of funeral - - - -	1 87	

No. 9—Statement continued.

1849.			
Dec. 12	To Pennsylvanian obituary notice	$3 50	
	To W. L. Schaffer and Joseph		
1850.	C. Molloy, appraisers - -	100 00	
Jan. 16	North American and U. S. Gazette, advertising - - -	2 37	
17	Henry Frank, mourning suits for James and Nacy - -	62 00	
25	C. Oakford, hat for James -	4 00	
30	Laurel Hill Cemetery, 2 lots -	320 91	
Feb. 12	Pennsylvania Inquirer, advertising - - - - - -	12 37	
21	J. C. Clark, printing - -	3 50	
M'ch 9	T. T. Derringer, dep. reg., fees	45 50	
April 2	W. H. Moore, undertaker -	233 17	
June 19	Jno. Struthers & Son, monument - - - - - -	841 75	
			1,630 94
	For the following legacies mentioned in the testator's will, and		
1850.	paid since his death, viz:		
Feb. 28	To S. W. Godon, in trust for Victorine Godon - - -	$4,750 00	
28	S. W. Godon, in trust for Cecelia Godon - - - -	4,750 00	
28	Thos. S. Mitchell, executor of Catharine Stewart - -	4,750 00	
M'ch 27	Gerard Ralston, John Bell, and Elliott Cresson, trustees for the American Colonization Society - - - -	9,500 00	
			23,750 00
	For collateral inheritance tax,		
1850.	paid on the following legacies, viz:		
M'ch 1	To T. C. Bunting, reg., on V. & C. Godon legacies $10,000 -	500 00	
1	Do., reg., on C. Stewart, $5,000 - - - - - -	250 00	
28	Do., reg., Am. Col. Society, $10,000, $500 - - -		
	Less 5 per cent., $25 - -	475 00	
			1,225 00
	Amount carried forward - - -		$35,933 37

No. 9—Statement continued.

	To amount brought forward - - - -		$35,933 37
	For the following sums not yet paid, but reserved to meet claims hereafter to be settled, viz:		
	Reserved for claim of B. Wilson for alleged services - - -	$2,228 75	
	Do. counsel fees, charges, claims, &c. - - - - - -	3,000 00	
	Do. S. H. Carpenter's commissions on $79,114 59 - -	3,955 70	
		$9,184 45	
	Balance in hands of S. H. Carpenter, executor, out of property within the State of Pennsylania	$36,823 43	
			46,007 88
			$81,941 25

Cr. *The estate of William Short, deceased, in account with Samuel H. Carpenter, executor.*

1849.				
Dec. 26	By appraised value of the property of the testator within the State of Pennsylvania at the time of his death, as stated in the inventory - - - - - - - - -			$79,114 59
	By the following sums received for interest on account of the property of the testator within the State of Pennsylvania, stated in the inventory, viz:			
1849.				
Dec. 8	Received of F. A. Van Dyke, jr., & Co., interest on note - - - -		$244 50	
10	Do.	do.	do. -	130 00
12	Do.	do.	do. -	222 66
1850.				
Jan. 2	Do. Charnley & Whelan, do. -		1,380 00	
2	Do. City of Pittsburg on their bonds - - - - -		300 00	
Feb. 1	Do. W. D. Lewis, int. on note		210 00	
May 1	Do. Charnley & Whelan, do. -		339 50	
				2,826 66

1544.

No. 9—Statement continued.

	The following sums have been received on account of principal of loans on collateral security, paid off since the death of the testator, and which form a part of the above sum		
1849.	of $79,114 59, viz:		
Dec. 8	Principal of F. A. Van Dyke, jr., & Co., note - - - -	$9,000 00	
10	Do. do. do. -	5,000 00	
12	Do. do. do. -	8,000 00	
1850.			
M'ch 20	Do. Charnley & Whelan, do. -	3,000 00	
		$25,000 00	
			$81,941 25

Statement of sums received by Samuel H. Carpenter since the death of William Short, on account of the property of said William Short not within the State of Pennsylvania at the time of his death, and referred to in the statement B annexed to the inventory, viz:

1849.	For interest and dividends:	
Dec. 7	By dividend Norfolk and Port Walthall St. Bt. Ass. st'k. - - - -	$250 00
1850.		
Jan. 2	interest Winchester and Potomac R. R. Co. bonds -	2,450 00
	interest State of Kent'y bonds	900 00
	interest city of St. Louis bonds	300 00
	interest city of Louisville bonds	30 00
	interest city of Cincinnati W. W. bonds - - - -	300 00
	interest Clover Hill R. R. bonds	900 00
5	dividend Rich'd, Fred. and Potomac R. R., new stock	1,314 90
	interest Rich'd, Fred. and Potomac R. R. cert. debt -	869 22
16	interest State of Tenn. bonds	600 00
Mar. 9	" " "	275 00
20	dividend Ohio Life Insurance Co. stock - - - -	400 00

Statement continued.

May	1	By interest city of Cincinnati bonds	$2,750 00	
		interest Rich'd, Fred. and Potomac R. R. bonds - -	2,700 00	
		interest city of St. Louis bonds	750 00	
		dividend Rich'd, Fred. and Potomac R. R. stock - -	1,570 45	
	8	Baltimore Steam-packet stock	400 00	
June	4	To dividend Norfolk and Port Walthall S. B. A. stock -	250 00	
	5	divided Baltimore Steamboat Packet stock - - - -	400 00	
	6	interest Rich'd, Fred. and Potomac R. R. bond - -	135 00	
				$17,544 57
		For principal of stocks, and loans, &c., paid off:		
1850.				
Jan.	28	By ten shares of stock in the Louisville and Portland canal, purchased by the company at $213 per share -	$2,119 35	
May	1	17 bonds of the city of Cincinnati for $1,000 each -	17,000 00	
	9	payment of account of the board for $30,000 of the Richmond, Fredericksburg, and Potomac R. road Co.	10,000 00	
June	6	balance of bond for $30,000 of the Richmond, Fredericksburg, and Potomac railroad company - - -	20,000 00	
		received of J. S. Chipman for sales of lands in the State of New York - - -	582 67	
				49,702 02
				$67,246 59

Estate of William Short, deceased.

Before the Register of Wills in and for the city and county of Philadelphia.

And now, this 21st day of June, 1850, Samuel H. Carpenter, executor of the said William Short, by his attorney, Henry D. Gilpin, appeals from the decision of the register, this day made, whereby he

decrees that the said estate is subject to the collateral inheritance tax in the amount of $26,995 01, and thereupon he prays for a register's court to decide upon the same.

H. D. GILPIN,
Att'y for S. H. Carpenter, ex'r.

June 22d, 1850.

In the register's court for the city and county of Philadelphia.

In the matter of the estate of William Short, deceased: Sur appeal by Samuel H. Carpenter, executor of the said William Short, from the decree of the register of wills for the city and county of Philadelphia, made on the 21st June, A. D. 1850.

The petition of Samuel H. Carpenter, executor as aforesaid, respectfully represents: That the said decree is erroneous and ought to be reversed. That it appears by the record and proceedings before the said register, now brought into this court, that the said William Short, at the time of his death, had no real estate within this Commonwealth. That it also appears thereby, that all the personal estate of which he was then possessed, being within this Commonwealth, was of the appraised value of - - - - - - - - - - - $79,114 59

That it also appears thereby, that there were certain securities, and evidences of debt, stocks, loans, and property not within this Commonwealth, belonging to the testator at the time of his death, which had come to the knowledge of the petitioner as his executor, and were stated by him, without prejudice to the rights of the representatives of the testator and his estate to be exempted from any liability or tax thereupon, or on account thereof within this Commonwealth. The value of this property not being within this Commonw'th was appraised at $522,471 92

The two sums together making an aggregate of - 601,586 81

That it also appears thereby, that the petitioner as his executor, has paid for debts, expenses, specific legacies, and collateral inheritance taxes on said specific legacies 26,933 37

And that he claims to retain in his hands part of the personal estate being within this Commonwealth, for expected demands and for commissions thereon - - 9,184 45

Making together - - - - - - - - - $36,117 82

That after deducting from the said amount of property being within this Commonwealth, amounting as above stated, to - - - - - - - - - - - $79,114 59

The said payments already made by the petitioner as aforesaid, and the said sum which he claims to retain, being together - - - - - - - - - - $36,117 82

It leaves as the entire residue thereof, which is to pass to the collateral relatives of the testator by the terms of his will, the sum of - - - - - - - - - $42,996 77

That by the laws of this Commonwealth this residue alone is, as the petitioner is informed and believes, subject to the payment of the collateral inheritance tax, which amounts thereon to - - - - - - - $1,749 83

That it appears by the said records and proceedings before the said register, that he has decreed that the collateral inheritance tax to which the said estate of the testator is subject, under the laws of this Commonwealth, amounts to - - - - - - - - - - $26,995 01

The said register having decreed that the said estate is thereby made subject to the payment of the said tax, as well on the securities and evidences of debt and property, not being within this Commonwealth according to its appraised value, as on the estate and property being within this Commonwealth: Wherefore the petitioner, as executor as aforesaid, prays that the said decree may be reversed and that the estate of the said William Short, being within this Commonwealth and and passing by the devise of his residuary estate to his nephews, John Cleves Short and Charles Wilkins Short, viz: the said amount of $42,996 77, may alone be decreed to be subject to the said collateral inheritance tax.

SAMUEL H. CARPENTER, *Ex'r*,
By his attorney, H. D. GILPIN.

In the matter of the estate of William Short, deceased.

June 22, 1850, appeal filed by H. D. Gilpin, attorney for Samuel H. Carpenter, executor of Wm. Short, deceased, appealing from the decision of the register, whereby he decrees that the said estate is subject to the collateral inheritance tax, in the amount of $26,995 01, agreeably to the act of assembly, and he therefore prays for a register's court to decide upon the issue.

And now, this 22d June, 1850, on the appeal by Samuel H. Carpenter, the executor of Wm. Short, from the decree of the register made on the 21st inst., and on filing the petition of said Samuel H. Carpenter, executor as aforesaid, by his attorney, H. D. Gilpin, read and filed, it is ordered that the said appeal be heard on the third Monday in September next; and the said executor shall in the mean time give security in the sum of $30,000 for the payment of such amount as may be found due for the collateral inheritance tax on the said estate on final decree.

Know all men by these presents, that we, Samuel H. Carpenter, Charles Toppan, 103 Locust street, and William L. Schaffer, Girard

Bank, are held and firmly bound unto the Commonwealth of Pennsylvania, in the sum of thirty thousand dollars, lawful money of the United States of America, to be paid to the said Commonwealth of Pennsylvania, her certain attorney or assigns, to which payment, well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals. Dated the twenty-seventh day of June, in the year A. D. one thousand eight hundred and fifty.

The condition of this obligation is such, that if the above bounden Samuel H. Carpenter, executor of William Short, deceased, heirs, executors, administrators, or any of them, shall and do well and truly pay, or cause to be paid, to the register for the probate of wills, &c., for the city and county of Philadelphia, all and singular the collateral inheritance taxes which have accrued, or may accrue, on the estate of William Short, deceased, of which estate the said Samuel H. Carpenter, executor, together with all interest and costs thereupon, according to law, when and as the same shall become due and payable, without any fraud or further delay; then the above obligation to be void, or else to be and remain in full force and virtue.

S. H. CARPENTER,
CHAS. TOPPAN,
W. L. SCHAFFER.

Sealed and delivered in presence of us—
THEO. T. DERRINGER,
THOS. C. BUNTING.

September 21st, 1850. At a register's court held—present Judges King, Campbell, and Bunting, register—the matter was argued by H. D. Gilpin, attorney for executors.

September 26th, 1850. At a register's court held—present Judges King, Campbell, Parsons, and Bunting, register—the matter was further argued by counsel.

September 27. At a register's court held—present King, Parsons, and Campbell, and Bunting, register—the matter was argued by R. K. Scott, and William Hood, attorney for Commonwealth, and the case postponed.

December 4th, 1850. And now, on the appeal by Samuel H. Carpenter, the executor of the said William Short, deceased, from the decision of the register made on the 21st of June, A. D. 1850, the same having been heard and considered, it is ordered and decreed that the said decree of the register be, and is hereby confirmed, and that the said estate is subject to the collateral inheritance tax in the amount of $26,995 01; and thereupon, on the same day, the said Samuel H. Carpenter, executor of the said William Short, prays an appeal from the said decree of the said court this day made to the supreme court of the eastern district of Pennsylvania.

And the said appeal is allowed, on the said appellant entering into a recognizance, with security to be approved by the register, in addition

to the security given under the order of the court of 22nd of June last, in the further sum of one thousand dollars, to prosecute his said appeal with effect, and to pay all costs that may be adjudged against him.

In the register's court for the city and county of Philadelphia.

In the matter of the estate of William Short: Sur appeal from the decree of the register of wills for the said city and county of Philadelphia.

Samuel H. Carpenter, executor of William Short, deceased, hereby appeals from the decree of the said court made this fourth day of December, A. D. 1850.

S. H. CARPENTER, *Executor.*

Be it remembered, that on this 4th day of December, A. D. 1850, before Thomas C. Bunting, register of wills, personally appeared Samuel H. Carpenter, executor of William Short, deceased, the above appellant, and being duly sworn, according to law, did depose and say that the said appeal is not intended for delay.

S. H. CARPENTER, *Executor.*

Sworn and subscribed on the said day and year, before
THOMAS C. BUNTING, *Register.*

Know all men by these presents, that we, Sam'l H. Carpenter, Charles Toppan, and W. L. Schaffer, of Philadelphia, Pennsylvania, are held and firmly bound unto the Commonwealth of Pennsylvania, in the sum of one thousand dollars, lawful money of the United States of America, to be paid to the said Commonwealth of Pennsylvania, her certain attorney or assigns; to which payment well and truly to be made, we bind ourselves, our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals. Dated the fourth day of December, in the year A. D. one thousand eight hundred and fifty.

The condition of this obligation is such, that if the above bounden Saml. H. Carpenter, executor of William Short, deceased, will prosecute his appeal from the register's court to the supreme court of Pennsylvania, and pay all costs that may accrue, together with all interest and costs thereupon, according to law, when and as the same shall become due and payable, without any fraud or further delay; then the above obligation to be void, or else to be and remain in full force and virtue.

S. H. CARPENTER,
CHAS. TOPPAN,
W. L. SCHAFFER.

Sealed and delivered in presence of us. The erasures made before signing.

THEO. T. DERINGER.

CITY AND COUNTY OF PHILADELPHIA, *ss*:

I certify the foregoing writings to be true copies of the original papers on the estate of William Short, deceased, as the same remain on file and record in my office at Philadelphia.

[Seal of register's office of city and county of Philadelphia.]

In testimony whereof I have hereunto set my hand and affixed the seal of office, at Philadelphia, the sixth day of January, in the year of our Lord one thousand eight hundred and fifty-one, and of our independence the seventy-fifth.

THOS. C. BUNTING,
Register.

In re Short's estate.

Opinion by Chief Justice Gibson.

That Mr. Short's property out of the State subjected him to personal liability for taxes assessed on it in his lifetime, here is not to be doubted.

The general rule is, that the situs of personal property follows the domicil of the owner of it, insomuch that even a creditor cannot reach it in a foreign county, except by attachment, or some other remedy provided by the local law; certainly not by a personal action without an appearance or something equivalent to it. But personal property abroad may, for particular purposes, have an actual situs distinguishable from its legal one; by the death of the owner, however, he ceases to have a domicil, and all the incidents of it are at an end, except the title to the succession.

The title to assets abroad devolves upon a local administrator whose business it is to collect the effects, to sell them, and, having paid all charges by creditors or the State, to remit the surplus to the executor or administrator at the place of the domicil, for distribution among unpaid creditors and the next of kin.

This was shown on principle and authority in Mothland vs. Wireman, 3 Penns., 186, and the case of Miller's estate, 3 Rawle, 312; and the legislature acted on the principle of those cases in the act of 1826, by subjecting nothing to the collateral inheritance tax but property within the State, described as passing from any person who may die seised or possessed of such estate being within this Commonwealth."

The position taken for the next of kin in the argument of Smith vs. The Commonwealth was, that the words relate to the person of the decedent and not to the property. But they are properly referable to the subject which the legislature was speaking of, which was the things to be taxed, and not the person of the former owner of it, which was beyond the legislative power. Any other interpretation would have tied up the hands of the legislature in respect to property within their grasp.

Had we required both person and property to be here at the death, the right of the State would have been still further restricted; yet if the words are applicable to the person they are at least as much applicable

to the property. Indeed it is impossible to conceive how a tax could be assessed on the person of a dead man to which there can be no recourse; and, as was held in Smith vs. The Commonwealth, it must consequently be assessed on the property here without regard to the domicil. Did the question therefore stand on the act of 1826, we would hold the property in question to be free from the tax; but the legislature thought proper to enlarge its operation, by assigning to it a more extensive meaning. By the supplemental act of 1850, it was declared that "the words being within this Commonwealth shall be so construed as to relate to all persons who have been at the time of their decease, or now may be, domiciled within this Commonwealth, as well as to estates; and this is declared to be the true intent and meaning of said act." More pointed words to make the act retrospective could not be chosen, and it will scarce be said the legislature had not power to make it so, at least while the assets remain in the hands of the executor or administrator. No clause of the constitution forbids it to extend a tax already laid, or to tax assets not taxed before; and in establishing its peculiar interpretation, it has only done indirectly what it was competent to do directly.

The argument has been, that we ought not to give the act a retrospective effect unless we are forced to do so by the stringency of the words.

The principle is a sound one where retroaction would do injustice, as it would have done in Bedford vs. Shilling. But certainly no injustice is done by increasing a tax to meet an increase of the public burthens; waiving that consideration, the words are peremptorily directed to be applied to the estates of persons who were domiciled here at the time of the death; and there is consequently no room for construction.

Decree of the register's court affirmed.

Therefore, this 24th day of May, A. D. 1851, it is considered by the said supreme court now here, that the decree and judgment aforesaid be in all things affirmed, and do stand in its full force, strength, and effect.

I certify the above and foregoing to be a true copy and exemplification of the whole record and proceedings in the above case.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said supreme court of Pennsylvania, for the eastern district at Philadelphia, this twenty-ninth day of [SEAL.] August, A. D. one thousand eight hundred and fifty-one, (1851.)

J. SIMON COHEN,
Prothonotary.

I, John Bannister Gibson, chief justice of the supreme court of Pennsylvania, do hereby certify, that Joseph Simon Cohen was, at the time of signing the annexed attestation, and now is prothonotary of the said supreme court of Pennsylvania, in and for the eastern district, to whose

acts, as such, full faith and credit are and ought to be given, and that the said attestation is in due form.

In testimony whereof I have hereunto subscribed my name, this twenty-ninth day of August, one thousand eight hundred and fifty-one.

JOHN B. GIBSON.

And the said defendant, Samuel H. Carpenter, ex'or, by T. Ewing, his attorney, comes and says, that there was drawn in question in the decision of said cause the validity of an act of the legislature of the Commonwealth of Pennsylvania, of the session of , 1850, entitled "An act relating to collateral inheritance taxes," as repugnant to the Constitution of the United States, and that the judgment and decision of the court thereon were in favor of the validity of the said act, all which manifestly appears by the record and proceedings in said cause, in which he saith there is error. He therefore prays that a writ of error may issue to bring the decision and judgment before the Supreme Court of the United States, and that the same may be there examined and revised for the causes aforesaid.

By T. EWING,
His attorney.

Writ of error.

UNITED STATES OF AMERICA, *ss.*

The President of the United States, to the honorable the judges of the supreme court of Pennsylvania, greeting:

Because, in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court before you, or some of you, being the highest court of law or equity of the said State in which a decision could be had in the matter of the estate of William Short, deceased, wherein was drawn in question the validity of a treaty or statute of, or an authority exercised under, the United States, and the decision was against their validity; or wherein was drawn in question the validity of a statute of, or an authority exercised under, said State, on the ground of their being repugnant to the constitution, treaties, or laws of the United States, and the decision was in favor of such their validity; or wherein was drawn in question the construction of a clause of the constitution, or of a treaty or statute of, or commission held under, the United States, and the decision was against the title, right, privilege, or exemption, specially set up or claimed under such clause of the said constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of Samuel H. Carpenter, acting executor, and Charles Wilkins Short and J. Cleves Short, executors named and residuary legatees in the will of said William Short, deceased, as by their complaint appears. We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do com-

mand you, if judgment be therein given, that then under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the records and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error, what of right, and according to the laws and custom of the United States, should be done.

Witness the honorable Roger B. Taney, chief justice of the said Supreme Court, the first Monday of December, in the year of our Lord one thousand eight hundred and fifty-two.

WM. THOS. CARROLL,
Clerk of the Supreme Court of the United States.

Allowed by R. C. GRIER,
Associate Just. S. C. U. S.

Copy of bond to prosecute writ of error.

Know all men by these presents, that I, Samuel M. Hart, of Cincinnati, Ohio, am held and firmly bound unto the Commonwealth of Pennsylvania, in the full and just sum of five hundred dollars, to be paid to the said Commonwealth of Pennsylvania, certain attorney, or assigns; to which payment well and truly to be made, I bind myself, my heirs, executors, and administrators, jointly and severally, by these presents.

Sealed with *our* seals, and dated this 27th day of January, in the year of our Lord one thousand eight hundred and fifty-three.

Whereas lately, at a supreme court of Pennsylvania, in a suit depending in said court, in the matter of the estate of William Short, deceased, judgment was rendered against Samuel H. Carpenter, acting executor, and Charles Wilkins Short, and John Cleves Short, executors named and residuary legatees in the will of said William Short, deceased, and the said Samuel H. Carpenter, acting executor, and Charles Wilkins Short, and J. Cleves Short, executors named and residuary legatees in the will of said William Short, deceased, having obtained a writ of error and filed a copy thereof in the clerk's office of the said court to reverse the judgment in the aforesaid suit, and a citation directed to the said Commonwealth of Pennsylvania citing and admonishing to be and appear at a Supreme Court of the United States, to be holden at Washington the first Monday of December next:

Now, the condition of the above obligation is such, that if the said Samuel H. Carpenter, acting executor, and Charles Wilkins Short, and J. Cleves Short, executors named and residuary legatees in the will of said William Short, deceased, shall prosecute their writ of error to effect, and answer all damages and costs if they fail to make their

plea good, then the above obligation to be void, else to remain in full force and virtue.

SAMUEL M. HART. [SEAL.]

Sealed and delivered in presence of—

Approved by R. C. GRIER,
Associate justice, S. C. U. S.

Citation with service.

The United States of America, to the Commonwealth of Pennsylvania, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday of December next, pursuant to a writ of error filed in the clerk's office of the supreme court of Pennsylvania, in the matter of the estate of William Short, deceased, wherein Samuel H. Carpenter, acting executor, and Charles Wilkins Short, and J. Cleves Short, executors named and residuary legatees in the will of said William Short, deceased, are plaintiffs in error, and you are defendant in error, to show cause, if any there be, why judgment rendered against the said plaintiffs in error, as in the said writ of error mentioned, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Witness the honorable Robert C. Grier, associate justice of the Supreme Court of the United States, this twenty-seventh day of January, in the year of our Lord one thousand eight hundred and fifty-three.

R. C. GRIER,
Associate justice, S. C. U. S.

Served upon William Bigler, esq., governor of Pennsylvania, by handing him in person a true copy of the within writ, and by exhibiting to him the original thereof, on Tuesday, the 20th day of December, 1853.

Served upon F. W. Hughes, esq., attorney general of the State of Pennsylvania, by handing him in person a true copy of the within writ, and by exhibiting to him the original thereof, on Friday, the 16th day of December, 1853.

So answers F. M. WYNKOOP,
U. S. marshal, E. dist. of Penn.